



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MA 01545-5398

March 27, 2007

PUBLIC HEARING: Town of Shrewsbury, 100 Maple Ave., Shrewsbury, MA, on behalf of Robert DeFalco, 197 Boston Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of the Town of Shrewsbury, 100 Maple Ave., Shrewsbury, MA, on behalf of Robert DeFalco, 49 Roman Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Open Space Requirement, Commercial Business District, to allow 15 percent of the lot area of property located at 197 Boston Tpke. to remain as open space. The subject premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plot 96.

PRESENT: Paul M. George, Chairman Pro-tem, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on March 12, 2007 and March 19, 2007.

Mr. Gordon: I move to continue. There's a letter in there.

Mr. Alarie: I believe that there's a letter in the file, Mr. George, requesting a continuance until the next hearing.

Mr. Gordon: I move to continue.

Mr. Smith: Second.

Mr. George: All in favor?

Mr. Gordon: Aye.

Mr. Schaetzke: Aye.

Mr. Confalone: Aye.

Mr. Smith: Aye.

Mr. George: Aye.

Decision

On March 27, 2007, the Shrewsbury Zoning Board of Appeals unanimously voted to continue the appeal of To hear the appeal of the Town of Shrewsbury, 100 Maple Ave., Shrewsbury, MA, on behalf of Robert DeFalco, 49 Roman Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Open Space Requirement, Commercial Business District, to allow 15 percent of the lot area of property located at 197 Boston Tpke. to remain as open space. The subject premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plot 96.

Vote

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| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Confalone | Yes |
| Mr. Schaetzke | Yes |
| Mr. Smith | Yes |

PUBLIC HEARING: Mark and Wendy Harvey, 14 Lebeaux Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Mark and Wendy Harvey, 14 Lebeaux Drive, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the expansion of the single family dwelling situated upon property located at 14 Lebeaux Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 36 as Plot 10.

PRESENT: Paul M. George, Chairman Pro-tem, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on March 12, 2007 and March 19, 2007.

Mr. George: You can come forward and state your name for the record. We have a recording of the minutes.

Mr. Harvey: My name is Mark Harvey. This is Ken O'Connell, our builder.

Mr. O'Connell: Basically, what we're doing is we're putting a two-story addition off of the back of the house. It's 15 ft. by 18 ft. which will consist of a family room down and an extension of the existing bedroom upstairs going out over that addition with an additional bath.

Mr. George: Is that off of where the deck area is in the back?

Mr. O'Connell: Yes. It's basically taking the space of the deck plus a little bit more. We're within the bounds of the setbacks. Basically, I guess you changed zoning a couple of years ago. That's why we're here.

Mr. George: Do any board members have questions?

Mr. Gordon: This is going to be two stories?

Mr. O'Connell: Yes.

Mr. Gordon: Is it going to have a foundation?

Mr. O'Connell: Yes it is, not a full foundation. It's going to have a crawl space.

Mr. Gordon: A crawl space?

Mr. O'Connell: A vented crawl space.

Mr. Gordon: Okay. Looking at it, it's to the right rear of the house, right? I just want to make sure in my own mind, the side where the driveway is?

Mr. O'Connell: Right.

Mr. Harvey: That's correct. I have photos here if you'd like to see.

Mr. George: Yes, you could pass them around.

(Mr. O'Connell presented the photos to the board members.)

Mr. O'Connell: I do have blueprints with me.

Mr. Alarie: For the board's information, this property was previously zoned Limited Industrial. That zoning did not permit any residential use. A while back, we converted this area to Commercial Business, which at one time permitted single family homes. We took that use out of this district as well a couple of years ago. So, it's been a legal nonconforming use of the property for a number of years. What is required to expand any nonconforming use is a special permit from the board.

Mr. George: What is the addition going to consist of? Are there going to be bedrooms?

Mr. Harvey: No. It's a finished upstairs now. It's a cape. The bedroom is above that end of the house. It's going to be extended out with a second bath. Down below is just going to be an open family room. There's not going to be any deck or anything. That's all being taken down.

Mr. Gordon: You wouldn't happen to have a rendering, would you?

Mr. Harvey: Yes.

(Mr. O'Connell presented the rendering to the board.)

Mr. Alarie: Just to clarify one point based on the renderings, it would not be two stories. It's one and a half stories. You're going to maintain the cape appearance?

Mr. Harvey: Right.

Mr. George: Do any board members have questions? Is there anyone in attendance who would like to comment on this petition? Just stand and state your name for the record.

Mr. Jakstis: Anthony Jakstis, 5 Lebeaux Drive. I want to say that I am in favor of the Harveys who want to build this addition. I live diagonally in front of them. They're on the even side and I'm on the other side. When I look out my picture window, I can see them. I just want to say that I'm in favor of what they want to do.

Mr. George: Thank you very much. Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 27, 2007, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Mark and Wendy Harvey, 14 Lebeaux Drive, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the expansion of the single family dwelling situated upon property located at 14 Lebeaux Drive.

The subject premises is located within a Commercial Business District (recently rezoned from Limited Industrial) and its occupation for single family residential use has been legal nonconforming for over 40 years. The appellants propose to expand their home by adding a 14 ft. by 18 ft. room to the rear of the structure that will include a _ story of habitable living area at its second level.

The board noted that the lots abutting the first part of Lebeaux Drive were developed primarily for single family use in the 1960's and the Walnut Hill condominiums were constructed at its northern terminus starting in the late 1980's. They found that this area is predominately residential in nature and that the proposed expansion of the Harvey's home would not deviate from the general character of this neighborhood. It was their opinion that, although the subject premises is business zoned, its limited size realistically precludes its use for such purposes. They concluded that the construction of the proposed addition would not materially alter or expand its nonconforming use or conflict with the general intent of Section IV of the Zoning Bylaw in regulating nonconforming buildings, structures or activities. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

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| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Confalone | Yes |

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| Mr. Schaetzke | Yes |
| Mr. Smith | Yes |

PUBLIC HEARING: George and Florence Bergquist, 95 Worthington Ave. and 19 Jackson Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of George and Florence Bergquist, 95 Worthington Ave., Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Area, Front, and Rear Yard Requirements, Residence B-2 District, to allow the division of property located at 95 Worthington Ave. and 19 Jackson Street into two lots with the former having 4,919 sq. ft. of land area and the development of the latter lot for single family residential use utilizing 25 ft. front and rear yard setbacks. The subject premises is described on the Shrewsbury Assessor's Tax Plate 39 as Plots 221-1, 307 and 308.

PRESENT: Paul M. George, Chairman Pro-tem, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on March 12, 2007 and March 19, 2007.

Atty. Byrne: Mr. Chairman and members of the board my name is Kevin Byrne; I'm an attorney. I have the pleasure and the honor of representing Florence and George, more Florence than George. Florence has been a town meeting member for thirty-seven years.

I got involved with Florence and George last week. Their application, in a sense, is a reapplication of something that occurred a couple of years ago before this board with not much success. I spent a rainy afternoon yesterday with George looking at the property and the rest of it. Candidly, Mr. Chairman, I need more time. I have suggested to the Bergquists that this is not easy for all sorts of reasons but, maybe I've been around and maybe these folks have been around, nothing is impossible but it may take me another month or so to figure out some way to convince you folks to grant them the relief that they're seeking. We're not ready to do that here tonight. I would respectfully request that this matter be continued until your next meeting in April at which time, hopefully, I can be more persuasive than I'm sure I can be tonight.

Mr. George: Do I hear a motion?

Mr. Gordon: I move to allow to continue.

Mr. Smith: Second.

Mr. George: All in favor?

Mr. Gordon: Aye.

Mr. Schaetzke: Aye.

Mr. Confalone: Aye.

Mr. Smith: Aye.

Mr. George: Aye. Granted.

Decision

On March 27, 2007, the Shrewsbury Zoning Board of Appeals unanimously voted to continue the appeal of George and Florence Bergquist, 95 Worthington Ave., Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Area, Front, and Rear Yard Requirements, Residence B-2 District, to allow the division of property located at 95 Worthington Ave. and 19 Jackson Street into two lots with the former having 4,919 sq. ft. of land area and the development of the latter lot for single family residential use utilizing 25 ft. front and rear yard setbacks.

Vote

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|---------------|-----|
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Confalone | Yes |
| Mr. Schaetzke | Yes |
| Mr. Smith | Yes |

PUBLIC HEARING: Edward O'Rourke, Jr., and Nancy A. O'Rourke, 18 Caroline Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Edward O'Rourke, Jr., and Nancy A. O'Rourke, 31 Morrill Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and variances to Section VII, Table II, Minimum Front and Rear Yard Requirements, Residence B-2 District, to allow the construction of additions upon property located at 18 Caroline Ave. maintaining the existing nonconforming front yard setback of said property, 26 ft. from the easterly sideline of Howard Street and 20 ft. from its rear lot line. The subject premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plots 262 and 263.

PRESENT: Paul M. George, Chairman Pro-tem, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on March 12, 2007 and March 19, 2007.

Atty. Thomasello: Good evening, my name is Attorney Anthony Thomasello, Jr. I represent the applicants, Ed and Nancy O'Rourke.

I can tell you a little background about Ed and Nancy. I met Ed when I was a young man in high school. I've known him all of my adult life. I don't know if he was born in Shrewsbury, but he's lived here certainly all of his adult life. He now lives on Morrill Avenue, but he inherited the property on Caroline Avenue when his parents deceased not too long ago. He wants to modernize and expand the dwelling. His hope is to sell the Morrill Ave. property and move into this property as a permanent residence, his primary residence.

There are a number of non-conformities, mainly due to the passage of time and because the Shrewsbury zoning ordinance. When the house was built, it was either relaxed or perhaps not existent. Now, because of the somewhat narrow front to back depth of the lot, it's a long lot and a fairly sizable lot, it's being squeezed between the front and the rear setbacks. It doesn't leave too much room.

I didn't know this, but my client's son actually prepared some computer assisted renderings. There is only one set, but he can pass them around.

Mr. George: That's all right, we'll just pass it along.

(Atty. Thomasello presented the renderings to the board.)

So, you're basically keeping the same front and rear yard setback?

Atty. Thomasello: No. Let me clarify that. It's probably easier to see the dimensions on the plot plan that was submitted with the petition. The setback for current house from Caroline Ave. does not conform. It's front yard setback is not being met, but it's lawful, nonconforming. There isn't going to be any further incursion on that line. The additions are actually much further back from the street.

Mr. George: Right.

Atty. Thomasello: But, because of the significant setbacks now, the addition, which is well behind the front of the existing house, still, I think, needs dimensional relief because of the 30 ft. setback. Actually, the proposed addition is...

Mr. George: Twenty-five feet.

Atty. Thomasello: Correct. It doesn't need it on the other side where it's 35 ft., but it is only 25.3 ft. on this side.

Mr. George: Correct.

Atty. Thomasello: The rear setback, I believe, is 30 ft. and there's a 24.7 ft. on one side.

Mr. George: And a twenty for the other side.

Atty. Thomasello: Yes, and a 20.9 ft.

Mr. Alarie: Let me just explain to the board, when the appeal was filed I was under the understanding that Howard street, this portion, was a paper street. Some parts are paper. This, in essence, is a driveway for one house, but it technically is a street. Therefore, being a corner lot, it doesn't have a rear yard, as such, so it's a side yard setback so it is in conformance where you see both the 20.9 and the 24.7. So, that is in conformance. It comes down to that utilization of the nonconforming setback on Caroline Ave. and then the encroachment towards Howard Street. That is technically a front yard setback although if you went down there as I did afterwards it's basically a private driveway.

Mr. Gordon: It's a driveway through to the two streets.

Mr. Alarie: correct.

Mr. O'Rourke: I could say, Ron, if need be I have that 10 ft. by 10 ft. addition which I was planning for a hot tub room. That's not a necessary expenditure to this structure. If that was an issue coming from Howard Ave. over...

Mr. Alarie: Right. What we were referring to before as a rear yard is really only side yard. It's a 10 ft. minimum. You've got 20.9 where the garage is and to the right-hand side of the house, as you face it from Caroline Ave., that proposed addition, you've got 24.7 ft. so they're both in conformance with that side yard setback.

Mr. Gordon: The 26.8, Ron, if Howard is regarded as a paper street, is that a front yard?

Mr. Alarie: It's not a paper street. It is truly a street with pass and re pass. There's a 30 ft. minimum setback for the front yard.

Mr. Gordon: That needs a variance.

Mr. Alarie: That needs the variance. A special permit along Caroline Ave. for that nonconforming setback and...

Mr. George: What about the rear Ron?

Mr. Alarie: There is no rear.

Mr. Gordon: There is no rear.

Mr. George: There is no rear.

Mr. Confalone: It says the rear is 40 ft.

Mr. Gordon: Basically, there's one variance and one special permit.

Mr. Alarie: Correct.

Mr. George: Do any board members have questions? Is there anyone in attendance who would like to comment on this petition? Just state your name for the record please.

Ms. Bryant: Carol Bryant, 10 Caroline Ave. I have no objections. I'm in agreement to what he wants to do. He showed me the plans.

Mr. George: Thank you very much for your comments. Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 27, 2007, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Edward O'Rourke, Jr., and Nancy A. O'Rourke, 31 Morrill Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and variances to Section VII, Table II, Minimum Front and Rear Yard Requirements, Residence B-2 District, to allow the construction of additions upon property located at 18 Caroline Ave. maintaining the existing nonconforming front yard setback of said property, 26 ft. from the easterly sideline of Howard Street and 20 ft. from its rear lot line.

The appellants' property, which was Mr. O'Rourke's family homestead, was developed well before the institution of zoning in Shrewsbury with the single family home situated thereon nonconforming with respect to its front yard setback from Caroline Ave. The lot is somewhat unique in its configuration with street frontage of over 160 ft., but having only 80 ft. of depth. It is also located at the northeast corner of the intersection of Caroline Ave. and Howard Street, which is virtually a very short private way. Mr. and Mrs. O'Rourke propose to construct additions to both sides of the existing structure utilizing but greatly increasing the property's nonconforming Caroline Ave. front yard setback and to extend the addition to the westerly side of the house to within 26 ft. of the sideline of Howard Street.

Upon review of this appeal, the board found that its proposed expansion would not materially change its nonconforming features, create any condition that would detrimentally affect the welfare of area residents or detract from the general character of many of the other homes located within the Caroline Ave./Willard Ave. neighborhood. It was their opinion that, due to the shape of the subject lot and the siting of the existing structure thereon, the reduction of the required 30 ft. front yard setback from Howard Street to 26 ft. would not seriously depart from the intent of the Zoning Bylaw. They felt that the improvements to the property would not conflict with any of the purposes of the bylaw as outline in Section I and, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

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| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Confalone | Yes |
| Mr. Schaetzke | Yes |
| Mr. Smith | Yes |

PUBLIC HEARING: Louis and Diane DeSantis, 20 Bay Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Louis and Diane DeSantis, 369 Bridle Path, Worcester, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of additions upon property located at 20 Bay Road maintaining the existing nonconforming setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 51 as Plots 165 and 166.

PRESENT: Paul M. George, Chairman Pro-tem, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on March 12, 2007 and March 19, 2007.

Mr. George: Just state your name for the record please and make your presentation.

Mr. DeSantis: Louis DeSantis.

Ms. DeSantis: Diane DeSantis.

Mr. George: Okay, what would you like to do?

Ms. DeSantis: We want to go up a second story on this house, I think that you have a picture in your folder, and then add on a garage to the right-hand side. It stay the same distance away from that property line that we're really close to. So, this area on this footprint would be two-story and this would be extended about 12 ft. here.

Mr. George: Do you have any plans for the board to view?

Ms. DeSantis: I don't have architect's plans yet. I just have what I gave you, like that footprint.

Mr. Gordon: So, it's going to be a two-story building in the end?

Ms. DeSantis: Yes.

Mr. Gordon: Or is it a story and a half?

Ms. DeSantis: It will be two.

Mr. George: How many square feet will this addition total?

Ms. DeSantis: Total, about 1,780 sq. ft.

Mr. George: That's all living area?

Ms. DeSantis: That's with the garage.

Mr. George: With the garage?

Ms. DeSantis: With a room over the garage.

Mr. George: What's the living area existing right now?

Ms. DeSantis: The existing house is 894, I want to say, around there.

Mr. George: So, when it's done, it's going to be about 2,600 sq. ft.?

Ms. DeSantis: No, about 1,780 sq. ft.

Mr. George: Oh, okay.

Mr. Confalone: So, this isn't being done on the existing footprint? You're expanding out about 12 feet?

Ms. DeSantis: For the garage.

Mr. Confalone: For the garage?

Ms. DeSantis: The existing footprint is going to go right up two stories.

Mr. Confalone: I've got you.

Mr. Gordon: You're not enlarging that front section where the half bath is going? That's not being enlarged?

Ms. DeSantis: No.

Mr. Gordon: It's going to fit in with what's there now?

Ms. DeSantis: Yes.

Mr. Gordon: Okay. Have you filed with conservation?

Ms. DeSantis: I already talked to Mr. Stone as Mr. Alarie suggested. I went up and talked with him and he said that I did not have to file.

Mr. Gordon: Oh, you don't, okay.

Ms. DeSantis: He was real happy about that.

Mr. Alarie: The property is connected to sewers Mr. Gordon.

Ms. DeSantis: Yes.

Mr. Alarie: If anybody's been down to this area, this lot sits up very high. The conservation or the Commonwealth's land is to the rear and it drops down to Stringer

Dam. There's probably a 20 or a 30 ft. difference in elevation between the top of this site down to the elevation of the lake below.

Mr. George: It was a tough piece of property to find.

Mr. Alarie: Yes, it is.

Mr. Gordon: Fifty some odd years ago, my family owned property in that area. I think that the biggest house was about 800 sq. ft. in that whole area.

Mr. DeSantis: I did get a plot plan from 1898 that was the original whole Edgemere area. I gave it to you guys, a copy of it, but it had the whole forest tract and the hotel. It's all up there. It came out of a house right on Bay View Drive. It was pretty spectacular.

Ms. DeSantis: Who did you give it to?

Mr. DeSantis: Engineering. He said that he had one but it was all falling apart.

Mr. George: Do any board members have questions? Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 27, 2007, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Louis and Diane DeSantis, 369 Bridle Path, Worcester, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of additions upon property located at 20 Bay Road maintaining the existing nonconforming setbacks of said property.

The subject premises is situated at the intersection of Bay Road, Stringer Dam Road and Smith Road with the easterly abutting parcel being state-owned land which extends to the shoreline of Flint Pond. There is a single family dwelling situated upon the property which is virtually tucked into the northeast corner of the lot with its location nonconforming with respect to its front yard setback from Smith Road and its easterly side yard setback. The appellants propose to remove a wing attached to the southerly side of the house, replace it with an attached two-car garage and to then add a second story addition over the entire structure. Both the vertical and lateral expansion of the dwelling would utilize the existing nonconforming setbacks.

Upon review of Mr. and Mrs. DeSantis' plans, the board noted that, due to the layout of the aforementioned streets, the abutting state-owned land and the positioning of the existing house upon this lot, there is a great deal of separation between this building and the other homes within this neighborhood. It was their opinion that, in this instance, the proposed expansion and alteration of this structure would not materially change its nonconforming features or create any condition that would detrimentally impact the welfare of area residents. They felt that the new dwelling, when completed, would compliment the general character of many of the other homes within this portion of the

Edgemere community and, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

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| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Confalone | Yes |
| Mr. Schaetzke | Yes |
| Mr. Smith | Yes |

PUBLIC HEARING: Shayan Paemon, LLC, 425-429 Boston Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Shayan Paemon, LLC, 425-429 Boston Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 425-429 Boston Tpke. for the display, sale, repair and servicing of motor vehicles. The subject premises is described on the Shrewsbury Assessor's Tax Plate 33 as Plots 170 and 170-1.

PRESENT: Paul M. George, Chairman Pro-tem, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on March 12, 2007 and March 19, 2007.

Mr. George: Counsel, you can state your name for the record.

Atty. Byrne: Mr. Chairman and members of the board, my name is Kevin Byrne. I am an attorney and I represent Ray Daneshand who's sitting here to my right. To his right is John Riel from Interactive Design Buildings who's got some interesting plans with reference to the building that Ray is excited about doing. Ray and his family and his two children are named Shayan and Paemon, if I've got that right, and are Shayan Paemon, LLC. He has two sons and a wife and they live on Eaton Place. They've lived there for more years than most of us have lived in one place.

Ray presently owns the property that's located at 425-429 Boston Turnpike, Route 9. He purchased it in June of 2005. Prior to that, he leased the property going back to 1995. So, back from 1995 to the present time Ray, in effect, has been running the operation there known as Choice Auto Center, LLC. I guess it became an LLC at some point, but he's run that business there for a substantial period of time. Those of you who are aware of the property, and I'm sure that you are, are aware of the fact that the existing building is old and sits close to Route 9. This plan has been through a substantial amount of revisions, but the first page of it is basically just a layout of what exists there presently. What exists there presently is this building located in this area here. The cars are then parked over closer to Saybrook Road over in this area.

This building has been there for God knows at least a gazillion years. It is in, how do I say this politically, a state of disrepair. Quite frankly, it needs substantial work. I think our building inspector has been somewhat generous up until this point. This building has got to come down. It cannot be renovated and it cannot be repaired. Ray has known that for a period of time. In fact, going back to about July of last year, July of 2006, he started with his engineer with a plan about how to, in effect, demolish that building and to construct another building of substantially smaller size and of substantially better design than that which is currently there. The building that's there, Ray tells me, has two floors?

Mr. Daneshand: Correct.

Atty. Byrne: It's two floors and about 15,000 sq. ft. feet. What he would like your permission to do, for which we need a special permit as this is in a Commercial Business District and, per our bylaw, we do need a special permit for doing garage repairs and for the sale of automobiles, is to demolish the building that's existing on the site now and to construct a building that's in this position here. It's on the smaller plan, obviously, that you folks have before you. The building is approximately 4,000 sq. ft. So, we're going from a 15,000 sq. ft. building to a 4,020 sq. ft. building, as such, and to do the parking in front of it.

The reason for all of these plans and this layout is that, apparently when the process started in July of 2006, somehow the engineer or whoever, got the insight that this required Planning Board approval through the site plan approval process because there were going to be more than twenty cars on the site. Well, there aren't going to be more than twenty cars, customer cars, on the site. He has appropriately permitted, at the moment, to use the site for the sale of forty automobiles. We know that that doesn't count in terms of the Planning Board insight into all of this. However, the process continued for a substantial period of time with Jack Perreault and with Eric Denoncourt upstairs in the Engineering Department and Ray's engineers. There were revisions to the plans. If you look at the plans, there were revisions that were done almost monthly in which the engineer would go upstairs, they would say "We'll take a look at this." and it would get revised. The last revision was in February, February 19th of 2007, but there were revisions in January, December, November, literally going back to July, as such. Although it wasn't necessary to come before the Planning Board for site plan approval process, what it did is it permitted Ray to get great insight from the folks on the second floor with Jack and, specifically, with Eric who focused on issues of drainage, site plan, use of the property and the rest of it. So, candidly, all of this entire process has been as if you were going to the Planning Board through an entire process in which the Engineering Department had kind of signed off on the whole thing. I had talked to Eric earlier this month and I said "Eric, with reference to the plan, the final revisions, I know that we don't have to go before the Planning Board, but is the Engineering Department satisfied with what Ray's plan, with all of the various revisions that it has come down to?" and his answer was appropriately "yes." At that point, they had been through that entire process as such.

Mr. George: Can I stop you there for one second Kevin?

Atty. Byrne: Sure.

Mr. George: Ron, the license that he has now for forty cars, would that be dissolved once he gets approval for this building to the twenty cars?

Atty. Byrne: No, this would be for forty cars.

Mr. George: Oh, you want forty cars?

Atty. Byrne: He's presently permitted for that, appropriately, through the Board of Selectmen and the plan calls for that as I understand it presently. So, we're not going to change that at all.

Mr. George: Okay.

Atty. Byrne: The Class II license that Ray has, has had since 1995, is for that number of vehicles so there is no reason to change all of that. I don't mean to confuse you. The site plan approval process is a building of 20,000 sq. ft. or 20 vehicles on site, but the forty vehicles on site are, basically, inventory. There are not twenty spaces that he is required to have for customers.

John Riel has come up with some plans, again, conceptual at this stage, but I would like to share them with you so that you can compare them with the existing building looks like because, for those of you who are not aware of the fact, it's not a particularly attractive building. This is what John Riel has given us.

Mr. George: You can start with Mel.

(Atty. Byrne showed the plans to the board members.)

Atty. Byrne: This is what the outside is purported to look like and this what the inside is going to look like, as such.

Mr. George: I have a question, Kevin, in regards to the demolishing of the existing building. Would that be done before or after the construction is completed?

Atty. Byrne: I think that it would have to be done before, don't you Ray?

Mr. Daneshand: It will be done after.

Atty. Byrne: After, oh, I'm sorry.

Mr. Gordon: Ron, what do you say?

Mr. Alarie: I would think that he needs the existing building to operate his business while they build a new building, then move into the new building and then demolish the existing one.

Mr. Gordon: Then demolish the old one, yes, that makes sense. My concerns are always snow storage and I see that we have it, the drainage, and I see that we have it, and an

attractive building, and I see that we have it. How many cars are you going to service in the back Bay?

Mr. Daneshand: Most of our service is done only for our vehicles.

Mr. Gordon: It's just for your stuff?

Mr. Daneshand: Exactly. We have a forty car license. All of my cars go through a safety inspection. We do not have forty cars on this site. We sell about ten, fifteen, twenty cars.

Mr. Riel: There are two bays in the back

Mr. Gordon: How about lighting? Are you putting outside lighting or just lighting that's there now?

Mr. Daneshand: Actually, they recommended that we do the lighting plan that we did. We had the engineers to do the lighting plan and there was too much light and Mr. Alarie recommended that the lighting was adequate so we canceled it.

Mr. Alarie: Well, they submitted a plan originally to the Planning Board that had an inordinate amount of lighting that we felt was inappropriate. We asked them to revisit that issue and review it and give us some photometric plans that showed what was going to be added and what was existing. I think that we concluded that this plan was more acceptable, especially seeing that you have the neighborhood directly to the rear. As we have discussed on other occasions we have at a dealership further east along Route 9 where I think that we've come to realize that there's just too much illumination on that site.

Mr. Gordon: How many saints there are on the head of a pin.

Mr. Alarie: Jack, Eric and I have reviewed this plan on a number of occasions.

Mr. Gordon: And you're satisfied with it?

Mr. Alarie: It has been reduced down to one that we find in compliance with the pertinent sections of the bylaw.

Mr. Gordon: Okay.

Mr. George: Concerning the servicing of vehicles and the hours of operation, is the servicing of vehicles going to be done in the rear of the building? Is that where the bay doors are?

Mr. Daneshand: That's correct.

Atty. Byrne: Inside the building.

Mr. Daneshand: Inside the building.

Mr. George: Inside the building. How about for storage in the rear of the building, are you going to store any cars or dumpsters?

Mr. Daneshand: Well, fortunately, we have about one and one half acres. We can put a dumpster anywhere that we wish. It's shown on the plan.

Atty. Byrne: We will put the dumpster where Mr. Gordon wants the dumpster.

Mr. Gordon: Mr. Gordon wants it enclosed.

Atty. Byrne: There you are.

Mr. Gordon: So that the neighbors don't have to see it.

Atty. Byrne: The other issue, quite frankly, is the screening, landscaping and appropriate shrubbery in the rear of the building.

Mr. George: In the residential area?

Atty. Byrne: For the residential abutters.

Mr. Gordon: What are your hours now Ray?

Mr. Daneshand: We're there from 8:30 to 6:30.

Mr. Gordon: How many days?

Mr. Daneshand: Monday through Friday and on Saturdays from 9:00 to 5:00.

Mr. Gordon: Those are the hours you would like to continue?

Mr. Daneshand: I hope so.

Mr. Gordon: You might as well just ask for what you want.

Mr. Daneshand: Eight-thirty to seven-thirty, please

Mr. George: Eight-thirty to seven-thirty?

Mr. Daneshand: Monday through Friday and on Saturdays, nine to six.

Atty. Byrne: Is that consistent with your present license?

Mr. Daneshand: Sunday, twelve to five. Yes.

Atty. Byrne: I'm sorry, Saturday?

Mr. Daneshand: Nine to five.

Mr. Gordon: So, two short days.

Mr. Daneshand: Yes.

Mr. Gordon: Saturday and Sunday?

Mr. Daneshand: Correct. No servicing on Saturday or Sunday.

Mr. Gordon: No service of vehicles?

Mr. George: No service on Saturday and Sunday?

Mr. Daneshand: Correct.

Mr. Confalone: You need the later hours during the week for service?

Mr. Daneshand: No, service ends at 5:00.

Mr. Confalone: Service ends at 5:00, so it's all in sales?

Mr. Daneshand: Correct. No mechanic wants to work after hours.

Mr. George: Kevin, if you have anything else, you can continue.

Atty. Byrne: The only thing else that I can say is that it's rather an unattractive site, no disrespect to Ray or anything, right at the moment. To take down that big kind of decrepit looking building and to put something up that is somewhat stylish, I think, greatly improves that area and is appropriate.

Mr. Gordon: And from a selfish point of view, it will be assessed at more money than the current building so the assessor will be happy.

Atty. Byrne: The assessor will be happy until Ray hires me to go and fight with the assessor, Mr. Gordon. That's an argument for another day, but I think that you're probably correct.

Mr. Gordon: I have no other questions.

Mr. George: Do any board members have questions?

Mr. Smith: I just have a question about signage.

Mr. George: Go ahead George.

Mr. Daneshand: The existing sign is already there.

Mr. Smith: The existing sign? You're going to maintain the existing signage?

Mr. Daneshand: It's grandfathered and I would like to light the sign up.

Mr. George: Where the existing sign is now?

Atty. Byrne: Where is the existing sign?

Mr. Alarie: Right at the intersection of Route 9 and Saybrook, right at the very corner.

Mr. Daneshand: At one time, it was lighted and then, over the years, the pigeons ate the wiring.

Atty. Byrne: Okay, so it's going to stay in the same location where it is presently.

Mr. Smith: Ron, is that in conformance?

Mr. Alarie: No, it's a pre existing nonconforming sign.

Mr. Smith: Okay.

Mr. Alarie: It's been there since the time that this property was a lumber yard.

Mr. Smith: Then, to replace this sign, as long as you replace it with one of similar dimensions, it stays in compliance?

Mr. Alarie: Yes, it has to stay the same. If he wanted to expand it or alter it in any fashion that would make it substantially different, he would have to come back before the board. As long as the lighting is continuous, no blinking lights or changing copy, that can be done by permit.

Mr. Smith: Okay. Thank you.

Mr. George: How long of a period do you foresee this construction to take?

Mr. Riel: Six to eight months.

Mr. George: Six to eight months? Right after the completion you would start the demolition of the old building?

Mr. Daneshand: That's correct.

Mr. George: Is there anyone in attendance who would like to comment on this petition? Just stand and state your name for the record, please.

Mr. Radke: Silvino Radke.

Mr. George: Where do you live?

Mr. Radke: I live at 58 Saybrook Road. Can I approach the board and explain my concerns?

Mr. George: Go right ahead.

Mr. Radke: I'm okay with the changes that are going on with the property. I can appreciate that it's being changed to a new building. The only concern that I have is my house is right here. I've been living there for almost four years now. About four months ago I purchased the house. My concern is that, right in front of my house, that is going to be where the new service area is.

Mr. George: Excuse me for just one second. Is that the old Moreschi house?

Atty. Byrne: Yes.

Mr. Radke: The cars will be exiting right in front of my house. I brought some pictures. If anybody is coming in or out of this space, it's right in front of our bedrooms. So, if we're in the bedrooms, we can see everything that's going on. Plus, we also park cars in the front of the house. I really don't see, physically, how the cars would come in and out of the property without either doing damage or blocking the street for the residents on Saybrook Road.

Mr. George: Do you have a driveway for your property to park the cars?

Mr. Radke: Yes, but my father is a minister and we have people coming in and out of the house for some stuff that they've got to come in and see my parents about. Plus, we always have guests and visitors.

Mr. George: So, some people park outside?

Mr. Radke: Yes.

Mr. Gordon: They park on the public street?

Mr. Radke: Exactly. I think that the way that it is right now, as you can see, there are two exits right in the front. They can look at the building. The building is right in front of my house. I just could see that, if the parking where the handicap is would be moved to the front of the of the building, they could move the dumpster away from the back of the building. If either the dumpster truck, because the dumpster will be right across from my street, if the dumpster truck comes in, plus any cars that are being towed in and out of the property, they will be right in front of the house.

Also, the concern is that the movement that currently is for the service bays on Route 9 would be moved from the front of my property and even the value of the property would diminish in that case. So, those are the concerns that I have.

Mr. George: Counsel, would you just like to address some of his concerns?

Atty. Byrne: I think that the issue of the dumpster can be resolved in loads of fashions. Ray owns most of the area on the other side. I think that we can take care of that.

With reference to Saybrook Road, Moe Bayou owned the property next door. He purchased the house and the infamous car lot in front of it that was there. When this started in July, there were concerns that Moe had with reference to that. During the course of not negotiations and during the course of the insight provided by the folks up in the engineering department, with Eric and with Jack looking at this with some detail and ultimately what they came up with, not necessarily Ray's engineer, no disrespect to him, is that this was the most effective use of this particular property.

With reference to lighting and with reference to the dumpster, as such, Ray is very cognizant of the fact that there are neighbors that are there. He doesn't want to impose upon them at all. I think that the lighting situation has been resolved. Rather ironically concerning the original lighting plan, years ago I was involved when the Century Lincoln dealership was permitted down on Route 9, down by whatever that mall is that's down there. I remember that we came in at that point with a lighting plan that we felt was appropriate. The then planner upstairs said "No, that isn't enough and you need to put more lighting in." So, with all due respect, when you criticize the lighting at the Century Lincoln Mercury, that came about because that's what the town wanted at that point, which quite frankly, I think can be seen from space. So, I think that that was the concern that Ron had and Eric had and Jack had upstairs. The lighting was maybe appropriate, but don't overdo it and the rest of it.

Mr. George: Right.

Atty. Byrne: So, that will be appropriately taken care of, I would expect, and likewise with the dumpster. With reference to the use on Saybrook, candidly, there has to be an entrance and exit.

Mr. George: Is there any way of, maybe, just moving it a little southerly down Saybrook so, if people park on the street, it won't be a problem?

Mr. Gordon: How many cars are we talking about?

Mr. Daneshand: Exactly.

Mr. Gordon: I mean, if he's only going to service four or five cars a week, how many cars are we talking about going in there, other than the employees?

Mr. George: And customers?

Mr. Gordon: No, customers will be going in the front entrance.

Mr. Daneshand: Right.

Mr. Gordon: Why would they go in the back?

Mr. Radke: Well, some people that go to buy a car at Ray's, and even in the other dealership, sometimes they take a drive up on our road. Plus, the service area is going to be there. Whenever the mechanics are going to fix the cars and when they go for a ride to see if the car is going to be okay, that's the road that they're going to be taking. Right

now they are right here up on Route 9. When they go to ride in their cars, they use Route 9. By coming to this road, they're blocking our street. For me, because my house is right there, it's depriving me of my space right in front of the house by having commercial. I don't mind him having the business there as long as there are not going to be cars coming and going, even a danger. The neighbor that lives behind Ray's property, he has kids. I have my niece that comes to my house also.

Mr. George: Well, I think that he could control that by just telling the customers that they have to exit out onto Route 9 and not exit going up Saybrook Road. I think that that would help, probably, to resolve some of that problem.

Mr. Radke: I would like to show some pictures from inside my house the way that you can see it, plus the road.

Mr. George: Go ahead, you can just circulate them.

(Mr. Radke showed the board pictures on his digital camera.)

Mr. Radke: This is from the bedroom.

Mr. Gordon: This is what's there now?

Mr. Radke: Yes. It's across so the building and the driveway would be right in front of the house. There are some other pictures that you can see. If the cars are parked in the street, there's basically not a spot for a neighbor to go by on the road. The bay would be right across from it. I'll get the other picture. This is where the car is and it is very narrow. The service area will be right here so I won't be able to park cars there anymore.

Mr. Gordon: Why don't you pass it down so that they can see it?

Mr. Confalone: How often do you utilize Saybrook for parking cars, every day?

Mr. Radke: Well, yes, most of the time. My property is considered residential.

Mr. Gordon: Ron, what size right-of-way is Saybrook 30, 40 ft.?

Mr. Radke: My house is a two bedroom and so right across from it any time that is going on. This is looking from my side of the street. This is the driveway.

Mr. Gordon: Excuse me, you have how many cars parked in front of your house on a daily basis?

Mr. Radke: Usually two.

Mr. George: The right-of-way is 40 ft.

Mr. Gordon: What's the paved area, Ron? Do you know?

Mr. Alarie: I would say it's probably around 26 ft. or 28 ft.

Mr. Gordon: Okay; so there's plenty of room for a car to get around.

Mr. Alarie: Unfortunately, this gentleman's house is in the Commercial Business District. As you can see on the site plan, the Commercial/Residential zoning line is to the north of this site. Again, it's indicative of one of those problems that we face with mixed uses. I think that that's why we eliminated the residential use from within the Commercial Business District in an attempt to try to prevent some of these conflicts. I can only point out that his site and the appellant's site are entirely within the Commercial Business District.

Mr. Gordon: The house?

Mr. Alarie: Yes, both.

Mr. Confalone: Both the business and the house?

Mr. Alarie: The appellant's property and this gentleman's are zoned commercial. I don't see the northerly limit of his property, where that ends, but perhaps you can bet a better reference on the tax map.

Mr. Radke: Well, on the city taxes, it does say that my house is a residential property.

Mr. Alarie: Well, it probably states that it is residentially used, but on the Assessor's map you can clearly see that your property is entirely within the Commercial Business District.

Mr. Confalone: Both the business and the home have a right to the road.

Mr. George: Right.

Mr. Gordon: It's a public way. That's why I asked, if it's a public street.

Mr. Radke: I would just like to ask if you could reconsider it because it will affect not only me being here but, you know, in the street they're definitely going to be having... I know his business has been there for a while; today it's five cars; next year it's ten. As it grows, the street is going to be affected. There are entrances here in the back and two in the front. I see, physically, that they could use the entrance in the front to get to the back by the side because it's a big space instead of just opening the door right in front of the house and having cars being serviced and coming in and out in front of the house.

Mr. Daneshand: Can I respond, please, to all four issues this gentleman has?

Mr. George: Go ahead.

Mr. Daneshand: Number one, we are not going to expand the business. We still have a forty car license so if the gentleman thinks that we are going to have more cars going in that direction it's completely false.

Number two, we have a carport over there, if you notice on the drawing.

Mr. George: Correct.

Mr. Daneshand: We move the cars to the front for the customers. The customers are not going to the back.

Number three, we have been there twelve years. We have never had any issues with any kids from Gerry's or them. They just moved to the neighborhood. I'm pretty sure that they have as much right. There are plenty of cars parked on that street for that house. We do not complain about that because they have absolutely every right to be there.

For the customers that go out, we do not really have retail customers. We have our own customers that we respond to. If you see the drawings that we have given, John has done, there's a carport over this so that we can deliver the cars to customers in the front, not in the back. So, they can go out of the exit to the front.

Mr. George: So, you're going to have a bay door in the front of the building where the carport is?

Mr. Daneshand: The car goes to the carport. That's where the car leaves the premises. Again, we cannot tell the customer where to go from the front, whether to take a right or left. We cannot do that. Again, I don't know how else to answer that.

Mr. George: I think that in the past we've made some stipulations for the car dealers about that. I think that we did that at Wagner's at one time, test driving cars, not to use the side street there.

Mr. Gordon: Yes, Wagner and Patrick.

Mr. George: Both, not to use the side streets.

Mr. Gordon: We suggested that they not use Elm Street or Chestnut Street because Chestnut Street, especially, is an 18 ft. street, isn't it?

Mr. Daneshand: Most of our customers go on Route 9 anyway.

Mr. Gordon: Why would you go to Saybrook unless you lived up there?

Mr. George: Right.

Mr. Confalone: That was my question.

Mr. George: I think that you can control most of the traffic leaving the site by direction.

Mr. Radke: In regards to there being no complaints, there have been complaints that there are people with dealer plates driving there.

Mr. George: Excuse me for one second. Ron, have we had any complaints from the police about this?

Mr. Alarie: We haven't received any at my office that I am aware of.

Mr. Radke: Plus, the service area is on Route 9 right now so there are going to be some complaints about the cars being serviced at Route 9 being over here because they do use the back door. Now, instead of using the back entrance and the front entrance on Route 9, it will be by Saybrook Road.

Mr. George: Well, like we said, it's a Commercial District and they have a right to use the property as long as it's within the requirements. We can control the traffic on Saybrook Road by telling people who test drive to exit onto Route 9. I think that would resolve a lot of the traffic problems that you're concerns are.

Atty. Byrne: Mr. Chairman, may I just interrupt? I think that that will happen automatically. If you're going to test drive a car, you're going to want to get it out onto Route 9. The other aspect of it, just with my brief talks with Eric up stairs, is that they wanted there to be some type of an appropriate entrance/exit onto Saybrook rather than just onto Route 9 for engineering purposes, I guess.

Mr. George: What's the distance between the entrance and exit on Saybrook road, between the two of them? Do you have any idea of that?

Mr. Boulay: Center to center, it is 140 ft.

Mr. Alarie: We actually asked them to reduce those. The openings were much wider

Mr. Boulay: The openings were bigger.

Mr. George: So you reduced the openings.

Mr. Boulay: Yes.

Mr. George: So, from opening to opening, it's 140 ft. Is that what you're saying?

Mr. Boulay: Yes, from the center of the opening to the center of the opening.

Mr. Gordon: Would you introduce yourself?

Mr. George: Just for the record.

Mr. Boulay: I'm Art Boulay, from H S & T.

Mr. George: So, from center to center of each exit and entrance is 140 ft.?

Mr. Boulay: It's 140 ft. between the two.

Mr. Radke: I have another question.

Mr. George: Go ahead.

Mr. Radke: How about we know for a fact that my house is going to depreciate, the value. If you look inside the bedrooms and look across the street, there's going to be a service bay right in front of the house.

Mr. George: One second, please. The service bays, the garage doors are on the side of the building or are they in the rear?

Mr. Daneshand: It's on the side.

Mr. George: It is on the side?

Mr. Daneshand: The garage itself is way back on the end of the building. Mr. Chairman, with all due respect, sir, this gentleman just bought the house four months ago. He was aware that this plan was going ahead.

Mr. Radke: No, I wasn't.

Mr. George: Excuse me, just let one person talk please. You can address any questions through the board or chairman.

Mr. Daneshand: I don't think that by us putting this building and spending that kind of money we're going to depreciate his land. We're definitely going to appreciate the value of his property. So, I think that his gut feeling is absolutely incorrect because we're putting a nicer building over there.

Mr. George: You mean that you're going to be improving the property?

Mr. Daneshand: Oh, absolutely.

Mr. George: You are going to put some screening in with greenery and trees?

Mr. Daneshand: Oh, absolutely. I purchased the property because the previous landlord was absolutely not doing anything to the property.

Mr. George: Excuse me, what is going to be in between the entrance and exit for greenery? Or, is it going to be fencing?

Mr. Riel: It's all greenery and bushes.

Mr. George: It's all greenery?

Mr. Daneshand: Yes. It's going to be a nice place.

Atty. Byrne: One of these is a landscape plan that's been upstairs. Again, this has been kind of an evolutionary process that's been going on for rather a period of time until everybody up here was satisfied.

Mr. Confalone: When you look out your window now, what do you see?

Mr. Radke: I see the road and the bushes on the other side.

Mr. Confalone: The bushes and the dilapidated building.

Mr. Radke: Right now it's dry, but in the summertime everything is green.

Mr. Confalone: You're going to maintain the greenery?

Mr. Daneshand: His house actually is at a higher elevation. He will see way over my building. He's at a much higher elevation at his house.

Mr. Radke: Anybody, in your view, is welcome to come and view my side of the road and be able to see.

Mr. George: I did come down and I did view it. From what's there now and what I think that he's proposing is going to be significantly better to look at than what is there right now, in my opinion. Everyone has their own opinion.

Mr. Radke: Yes, except that there will be cars coming in and out right in front of the house. It's going to be a service bay. This is something that's going to affect not only my view, but the way that I wake up in the morning and there are going to be cars accessing the road. Even though we can promise that people are going to be aware that they are not driving on the road, they are going to be driving on the road. That does change not only for me but for everybody that lives on Saybrook Road.

Mr. Gordon: Mr. Chairman, I think that we've heard the man's concerns.

Mr. George: We have.

Mr. Gordon: Unless there's something new, I think that we ought to go on and see if there's somebody else that would like to speak.

Mr. Smith: I would just like to ask a point.

Mr. George: Go ahead George.

Mr. Smith: Is there any possibility that you could possibly all get together and maybe do some sort of trees or greenery that might help that view? We've heard all of the concerns. I think that it's a very good use of the property, but maybe if you could work together towards some mitigation, that might help.

Atty. Byrne: Sure. Candidly, Mr. Smith, Moe Bayou owned this property at which this gentleman was a tenant. Moe, candidly, was substantially involved with all of these revisions and these changes and what we came up with, which was something. Moe had lived there at one point before this fellow. So, there was that process and Ray would be more than pleased to continue it.

Mr. Smith: Again, perhaps something on your property can be done, some trees or something, which might mitigate that. What I would suggest is that maybe you get together and open a line of communication and possibly discuss some of that.

Atty. Byrne: I'm sure that we can resolve that.

Mr. Smith: Thank you.

Mr. George: Is there anyone else in attendance who would like to comment on this petition? Just state your name for the record please.

Mr. Richardson: Gerald Richardson.

Mr. George: Where do you live?

Mr. Richardson: I'm the property owner at 19 Catalina Drive. It's on the corner of Saybrook and Catalina Drive. The back of my property abuts Ray's property. I've know Ray for a number of years and I like the guy. My daughter bought car from him and I have no problem with him. My best friend was his roommate, so we go back a long way. Where his proposed dumpster is will abut the corner of my property. You're going to move that, right?

Mr. Daneshand: Absolutely.

Mr. Richardson: The other thing that I have a concern with is the amount of noise that's going to be generated there. I have a six and eight year old. The eight year old goes to Floral Street School and the six year old goes to Beal. She's in kindergarten. His operation of hours of 5:30 is fine because they're in bed at 7:30. I don't have a problem with that, but it's the exhaust and stuff and where it's going to be vented out. What you're going to have is dumps that are hazardous waste. That's going to affect the general area.

Mr. George: Ron, does any of that go through planning?

Mr. Alarie: Again, this proposal falls below the threshold for a full Planning Board Review. We've done it in house between the Engineering Department and myself.

Mr. Gordon: Have you had any problem in the past?

Mr. Richardson: No, but his building's is going to be closer now.

Mr. Gordon: Have you had any problems with that?

Mr. Richardson: No, but where he's going to be moving the building right in my backyard, basically, I think that it's going to be an increase and a lot of noise. All three of the bedrooms are in the back facing this property now.

Mr. George: Now, are you elevated above his property?

Mr. Richardson: Yes. The back of my house is high. It has a foundation. The front is level and then it juts out. It's like two stories in the back.

Mr. Confalone: Well, he's asked to expand his hours of operation to close at 7:30 versus 6:30.

Mr. Richardson: Right

Mr. Gordon: But, the repairs are only until 5:00.

Mr. Richardson: Right.

Mr. Gordon: The noise is from the repairs that you're concerned with?

Mr. Richardson: That's not an issue. The other thing is where he does have that access to that building with the bay door opening and closing with all of the noise and stuff. My kids are playing in the backyard right over here. I'm just a little worried about traffic going in and out of there.

Mr. Gordon: It's showing a bunch of greenery there. That would block the sound.

Mr. George: Would you be opposed to a privacy fence?

Mr. Daneshand: We'll put a fence or greenery, whatever we have to do.

Mr. George: I think that once you put greenery and it grows, it's going to resolve the problem.

Mr. Daneshand: Right now we have sparse woods there.

Mr. George: Right.

Mr. Daneshand: When it's all green in the summer, it cuts down the noise tremendously. In the winter, I can see Route 9, the traffic and everything else.

Mr. George: Is that lot going to be cleared completely or is there going to be some greenery left in the rear of the property?

Mr. Daneshand: We will plant it with some shrubs and borders, but again, we can put a fence.

Mr. George: But, you're clearing that lot right to the property line before construction?

Mr. Riel: It will be, yes, because it's going to come all the way back to here, but then it will be put back in and we'll put the greenery in and landscape.

Atty. Byrne: We had talked of greenery and landscaping and I think that that was some of the discussion upstairs, that that might be more appropriate than fencing.

Mr. Daneshand: If you want fencing, we'll put fencing.

Mr. Richardson: I want to cut down on the noise and everything else. Like I said, I don't have a problem with you improving the business. It's actually a good thing. The other thing is that I'm just afraid that it might decrease my property, you know, looking out my backdoor.

Mr. George: When you service the vehicles, are the big doors closed most of the time?

Mr. Daneshand: We always close them, always, because this building is 70 ft. long.

Mr. George: Right.

Mr. Daneshand: The cars come into the bays all the way to the end. The front of it is basically where they clean the cars.

Mr. George: So, most of the noise is done on the inside and they close the garage?

Mr. Daneshand: They close the garage, yes.

Mr. Riel: The other thing to keep in mind is that, because it's a new building, there's going to be heat and air conditioning where right now he doesn't have that.

Mr. George: So, he'll be able to control the environment?

Mr. Riel: That's correct.

Mr. Daneshand: And all the hazardous waste oil and all, usually they come over, they give us a certificate and they remove it all and stuff like that and the garbage. There's no smell.

Mr. George: You told them that the dumpster would be moved.

Mr. Daneshand: Absolutely. Gerry is a neighbor. Again, I bought this property because the property was absolutely run down. I cannot operate it. I think that the drawing that John did and you can see that we're going to spend some money there. I don't think that any value of the property is going to go down. I think that it's going to go higher, sir, because of the money that I'm going to spend on the building.

Mr. Richardson: I hope so.

Mr. Gordon: To all of you, basically, that is not our concern. We can't judge whether you're going to be worth more or less before and after. I mean, does it comply with zoning? That's what we're here for.

Mr. George: That's what we're here for.

Mr. Gordon: It's a special permit so, basically, it's an allowed use with oversight.

Mr. George: That's what we'll use. We'll use oversight in approving the special permit.

Mr. Richardson: Like I said, I have two small kids and with the noise level and stuff, they're in bed early.

Mr. George: I know that you're an abutter. Have you ever had any problem with cars?

Mr. Richardson: Yes, but it's not only his fault. It's the other lot too. They drive up and down the street all of the time testing their cars out. Rather than taking them out on Route 9, they come up through the neighborhood.

Mr. George: I think that with the control by the owner stating that, if they want to test drive, they could always exit the front of the property/

Mr. Richardson: Right.

Mr. George: That could be controlled that way.

Mr. Alarie: Mr. George, I think that the building elevation should be put in perspective. If I remember correctly in reviewing this, at the back of the building the height of the roof, grade-wise, is pretty much at the same level of existing grade of the lot. So, it's not as though you're going to be seeing a full wall of a building. Am I correct on that, the grade does dip down towards Saybrook?

Mr. Riel: He'll be looking over the top of the roof.

Mr. George: Right, because it's such a steep grade there right now.

Mr. Alarie: My concern, after seeing the finished grading, that someone would have easy access to the rooftop. We insisted on some type of protection so that children or other people couldn't go from grade directly onto the top of the building and fall off on the open sides to the south and west. So, I think that with plantings or fencing, you won't be seeing much of the building from the back.

Mr. Confalone: Right.

Mr. George: Or the noise problem.

Mr. Alarie: It's not as though you're going to see a full wall of the building like you would typically see with a flat lot.

Mr. George: And the whole building isn't going to be exposed to your property. It's going to be down below it. That muffles any type of sound anyway, with fencing or greenery.

Mr. Richardson: Right.

Mr. Daneshand: That's one of the reasons why I'm one story as opposed to two stories.

Mr. George: Do any board members have questions?

Mr. Smith: I just have a couple of quick ones. Handicap parking spaces, Ron, I see one in here. Does that comply?

Mr. Alarie: There are only five or six spaces required for off-street parking. You need only one handicap space for the first fifteen spaces required.

Mr. Smith: The other one is that we actually show forty-two cars, I believe, in this picture. A couple of these spaces won't be occupied with cars?

Mr. Daneshand: That's parking.

Mr. Smith: Okay, it's just maintaining the forty cars?

Mr. Gordon: That's the Police Department's purview. They go out and check the numbers, I believe.

Mr. Smith: I just want to make sure that we're accurately representing the number of cars for sale versus what he needs for customer parking.

Mr. Daneshand: We've been there twelve years and we've never had anything over that number.

Mr. Alarie: There's a mix of parking spaces between the display vehicles, employee vehicles and then for the customers' vehicles. There are more than forty spaces on there, but only 5 or 6 are required for customers.

Mr. Smith: There should be more than forty. What we were showing here was a bunch of cars and I wanted to be sure. That's all that I had. Thank you.

Mr. George: In regards to that side entrance to the rear, is there any way of reducing the distance between the entrance and exit a little bit so that the exiting of cars, if they do use Saybrook, came a little bit southerly on Saybrook or do you have to have the entrance and exit?

Mr. Daneshand: We did, basically, what the Engineering Department mentioned. Also, the drawing, that is not the fairest drawing because the house is not exactly in front of that. I believe, Mr. George, that you came yourself and saw my property?

Mr. George: Yes, I did.

Mr. Daneshand: You can see that it's sitting further up. It's not in front of the house.

Mr. George: So, it's not exactly where the house is set?

Mr. Daneshand: Absolutely not.

Atty. Byrne: Again, I'm a broken record, but it came about with all of these discussions with Ron, Jack and Eric and the rest.

Mr. George: It seems like a great plan.

Atty. Byrne: Their approach, in terms of the abutters, the folks that are here and other folks who may be here, Ray is going to be a good neighbor.

Mr. George: Yes, and I'm sure that, if he's spending that kind of money, he doesn't want to have enemies around him.

Is there anyone else in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 27, 2007, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Shayan Paemon, LLC, 425-429 Boston Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 425-429 Boston Tpke. for the display, sale, repair and servicing of motor vehicles.

The subject property is located at the easterly corner of the Route 9 and Saybrook Road intersection and has been used since 1979 for the display, sale and repair of motor vehicles. The building situated upon this site is very old, in poor condition and sits relatively close to both the sideline of Route 9 and its easterly side lot line. The appellant proposes to remove the existing structure and to construct a new showroom towards the rear northwest corner of the lot adjacent to Saybrook Road. The new site layout would accommodate spaces to display 40 vehicles as well as 11 off-street spaces for customers and employee parking.

Upon review of the appellant's presentation and the site and building plans, the board found that the removal of the existing antiquated structure and the proposed redevelopment of this property in accordance with the current provisions of the Zoning Bylaw would result in a modern and more organized property thereby promoting and advancing the intent and the purpose of the bylaw. They noted that the use of this site for the sale of used motor vehicles and ancillary activities thereto for the past 28 years has been conducted in accordance with the special permits issued by this board as well as in harmony with the intent of the Zoning Bylaw in permitting such use within the Commercial Business District. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the following:

1. There shall not more than 40 unregistered vehicles stored or displayed upon the subject premises.

2. The repair and servicing of vehicles upon the subject premises shall be limited to those vehicles to be sold upon the site or to customers' vehicles. All such repairs and servicing shall be conducted within the proposed building and there shall be no auto-body work performed therein.
3. The sale of vehicles shall be restricted to those hours between 8:00 A.M. and 7:30 P.M., Monday through Friday, 9:00 A.M. and 5:00 P.M. on Saturdays and from 12:00 noon to 5:00 P.M. on Sundays.
4. The servicing and repair of vehicles shall be limited to those hours between 8:00 A.M. and 5:00 P.M., Monday through Friday. There shall be no repairs or servicing of vehicles conducted upon the premises on Saturdays or Sundays.
5. A planting of arborvitae or similar dense evergreen trees shall be planted between the rear of the building and along the northerly side lot line of the subject premises as depicted on the site plan submitted to the board. Said plantings shall be a minimum of 5 ft. in height and shall be spaced a maximum of 6 ft., center to center of each tree.

Vote

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| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Confalone | Yes |
| Mr. Schaetzke | Yes |
| Mr. Smith | Yes |